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2014 IL App (3d) 130172-U

Order filed September 5, 2014

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2014

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-13-0172
)	Circuit No. 95-CF-2877
SEAN HILL,)	
Defendant-Appellant.)	Honorable Robert P. Livas, Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Schmidt and Wright concur in the judgment.

ORDER

- ¶ 1 *Held:* The court's denial of defendant's motion for discharge from conditional release was not contrary to the manifest weight of the evidence.
- ¶ 2 Defendant, Sean Hill, was on conditional release, stemming from a 2000 finding of not guilty by reason of insanity, when the State filed a petition to revoke conditional release in 2012. The court found defendant had violated his conditional release, but reserved ruling. Defendant subsequently filed a petition for complete discharge from conditional release. After a hearing, the court continued defendant's conditional release and denied defendant's petition. Defendant

appeals, arguing the court's ruling was contrary to the manifest weight of the evidence. We affirm.

¶ 3

FACTS

¶ 4

In 1995, defendant was indicted on a number of felonies, including armed robbery, aggravated vehicular hijacking, aggravated kidnapping, and aggravated battery. In 2000, he was found not guilty by reason of insanity, and was thereafter held in the custody of the Department of Health Services (DHS). In 2007, the court entered an order for defendant's conditional release.

¶ 5

On March 20, 2012, the State filed a petition to revoke defendant's conditional release. In its motion, the State alleged, *inter alia*, that while on conditional release at Monroe Pavilion Health and Treatment Center (Monroe Pavilion), defendant had been verbally aggressive, returned late from passes, tested positive for cocaine and marijuana, and been linked to bringing drugs and alcohol into the facility. The petition also alleged that "[d]efendant *** had an incident where he began dictating his medical and psychiatric treatment with his doctors." The State alleged that this behavior violated the rules of Monroe Pavilion as well as the terms of defendant's conditional release.

¶ 6

After a hearing on the matter, the court found the State had shown, by a preponderance of the evidence, that defendant had violated the rules and regulations of Monroe Pavilion relating to curfew and drug abuse, and that he violated his conditional release. The court reserved ruling on whether defendant would remain on conditional release or be remanded to the custody of DHS. The cause was set for further hearing, and an independent mental health evaluation was ordered.

¶ 7

Dr. Jan Stampley of the Will County Health Department was appointed to perform defendant's mental health evaluation. The doctor's report read in full as follows:

"I was asked to evaluate [defendant] regarding the question whether he is appropriate for conditional release vs. whether he should be returned to an inpatient psychiatric facility. In formulating my opinion I evaluated [defendant] on three occasions, and reviewed his hospital records from Elgin Mental Health Center. In my opinion, his Axis I diagnoses are Mood Disorder Not Otherwise Specified by history and Polysubstance Dependence. His Axis II diagnosis is Antisocial Personality Disorder. In my professional opinion with a reasonable degree of psychiatric certainty, I deem [defendant] appropriate for conditional release. [Defendant] is currently refusing all psychiatric medication. I believe that [defendant] does not currently suffer any active, current symptomatology necessitating any medication at this time."

On the same date that Dr. Stampley's report was filed, defendant filed a petition for complete discharge from conditional release.

¶ 8 On February 25, 2013, a consolidated hearing was held addressing the remedy portion of the State's motion to revoke conditional release and defendant's motion for complete discharge. The parties stipulated to the inclusion of Dr. Stampley's report into evidence. Defendant called his sister and brother on his behalf. Both testified that if defendant was fully discharged he could live in their respective homes.

¶ 9 Defendant then called Sherman Johnson, the social service director at Monroe Pavilion. Johnson testified that defendant would be eligible to return to the facility if he remained on conditional release. Johnson was aware of defendant's previous curfew and drug violations and that defendant had been verbally aggressive while at Monroe Pavilion. Regarding defendant's attitude toward his treatment, Johnson told the court that defendant "ha[d] a tendency to be a little self-centered. *** He cause[d] a lot of confusion over—a lot of trouble over miniscule

things, like medication[.]” Further, Johnson noted that defendant “seemed to have no empathy for other systems if it was about them. His medication. What he wanted. And that kind of bumped up against some of the staff there.” Finally, Johnson testified that, sometime in September or October, defendant had left the facility on pass and simply not returned.

¶ 10 Defendant next took the stand. Defendant testified he did not know with certainty which family member he would live with if fully discharged, but that he was willing to live with his family. Defendant planned to attend both alcoholics anonymous and cocaine anonymous in order to address his substance abuse problems. He would also try to limit his exposure to the people and places that triggered his susceptibility to drinking, but he admitted such avoidance was not always possible. Defendant testified that he had violated his conditional release, he was taking the medication prescribed to him “on and off,” and he appreciated the criminality of his offenses from 1995.

¶ 11 On cross-examination, defendant stated that he wanted to return to Monroe Pavilion on a short term basis, rather than live immediately with a family member. Regarding this decision, defendant admitted that “I go back and forth because then I get confused sometimes, you know I’m not on my medication all the times, so it is confusing.” Upon being questioned by the court, defendant admitted to being with friends in Chicago when he left Monroe Pavilion in the fall of 2012.

¶ 12 On March 7, 2013, the court declined to terminate defendant's conditional release and extended the conditional release for five more years. Defendant appeals.

¶ 13 ANALYSIS

¶ 14 A defendant who files a petition for discharge from conditional release bears the burden of showing, by clear and convincing evidence, that such discharge is proper. 730 ILCS 5/5-2-

4(e)-(g) (West 2010). The trial court's ruling as to whether defendant has carried this burden will be respected unless it is against the manifest weight of the evidence. *People v. Wolst*, 347 Ill. App. 3d 782 (2004). " 'For decision to be against the manifest weight of the evidence, it must appear that a conclusion opposite to that reached by the trier of fact is clearly evident.' " *Id.* at 790 (quoting *People v. Barwig*, 334 Ill. App. 3d 738, 743 (2002)).

¶ 15 Section 5-2-4(g) of the Unified Code of Corrections (Code) provides a nonexclusive list of factors a court may take into account when deciding whether discharge (or any other modification) is appropriate. 730 ILCS 5/5-2-4(g) (West 2010). Those factors most relevant to the case at hand are:

"(3) the current state of the defendant's illness;

(4) what, if any, medications the defendant is taking to control his or her mental illness;

* * *

(7) the defendant's history or potential for alcohol and drug abuse;

* * *

(10) any family participation or involvement expected upon release and what is the willingness and ability of the family to participate or be involved; [and]

(12) any other factor or factors the Court deems appropriate." 730 ILCS 5/5-2-4(g)(3-12) (West 2010).

¶ 16 Defendant cites a single line from Dr. Stampley's report—"I believe that [defendant] does not currently suffer any active, current symptomatology necessitating any medication at this time"—and claims that it represents the manifest weight of the evidence. Defendant's assertion

is incorrect. Elsewhere in his report, Dr. Stampley diagnosed defendant with three separate disorders. The court also heard extensive evidence, including from defendant himself, regarding defendant's ongoing struggles with substance abuse. This included defendant's admission that certain people and places exacerbate his struggles. Evidence also showed that defendant apparently had his own opinions on his treatment and medication. Although two of defendant's family members testified they were willing to be involved in defendant's life, this testimony is not enough to counter the great amount of evidence cautioning against discharge.

¶ 17 Defendant also places misguided reliance on section 5-2-4(d)(2) of the Code. Subsection (d)(2), read alone, states that "the defendant may be conditionally released because he or she is still in need of mental health services or that the defendant may be discharged as not in need of any mental health services[.]" 730 ILCS 5/5-2-4(d)(2) (West 2010). Further reading of subsection (d), however, reveals that the subsection refers to the determination of a facility director, and orders that the director shall make a recommendation to the court if he or she makes the finding contemplated in subsection (d)(2). 730 ILCS 5/5-2-4(d) (West 2010). The hearing in this case stemmed from defendant's own petition for discharge, rather than a facility director's suggestion that he was not in need of any mental health services. Subsection (d) is thus inapplicable.

¶ 18 The factors set forth in section 5-2-4(g) of the Code, as applied to the evidence in defendant's case, weigh against a complete discharge from conditional release. The trial court's decision to deny defendant's petition for such a discharge is therefore not contrary to the manifest weight of the evidence.

¶ 19 **CONCLUSION**

¶ 20 The judgment of the circuit court of Will County is affirmed.

¶ 21

Affirmed.